



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/173596

PRELIMINARY RECITALS

Pursuant to a petition filed April 7, 2016, under Wis. Stat., §49.45(5), to review a decision by Brown County Human Services to recover Medical Assistance (MA), a hearing was held on May 25, 2016, at Green Bay, Wisconsin, with the judge appearing by telephone.

The issue for determination is whether petitioner was overpaid MA due to not reporting income.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Brown County Human Services
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. Petitioner began to receive BadgerCare Plus (BC+) MA effective November 1, 2014, as a one-person household. A December 16, 2014 notice told petitioner that she needed to report to the agency if her monthly income rose above \$972.50.
3. Petitioner began work at [REDACTED] on June 29, 2015. Her income rose above \$972.50 in July, 2015. She did not report the job by August 10, 2015.

4. In September, 2015 petitioner received a notice saying that her annual renewal was due by the end of October. She called the 800 number on the back of her Forward Health card and was told that if she did nothing her BC+ would end at the end of October because she did not complete the review.
5. The county later discovered the income. It determined that had petitioner reported the job timely, her BC+ would have ended September 1, 2015 due to being over the income limit. By a notice dated March 31, 2016 the county informed petitioner that she was overpaid \$652.50 in MA payments in September and October, 2015 because she did not report her increased income. The overpayment consisted of all MA payments made on petitioner's behalf in those two months.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also the department's BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

An overpayment is determined as follows: "If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the ForwardHealth interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount." Handbook, App. 28.4.2.

As of April 1, 2014, all childless adults became eligible for BC+ with an income limit reduced to 100% of the Federal Poverty Level, which, for a one-person household was \$972.50 in 2014 and 2015. See Wis. Stat., §49.471(4)(a)4.b for the new law, and the BC+ Handbook, Appendix 50.1 for the limit. When petitioner started the new job her income rose above the limit, and she was required to report the new income by the tenth of the month after the income rose above \$972.50. Thus petitioner should have reported the income by August 10, 2015, and had she done so BC+ would have ended September 1, 2015. See the BC+ Handbook, App. 27.3 for the reporting requirement.

Petitioner was overpaid BC+ in September and October, 2015 because her income was above the limit those two months. Although petitioner had no insurance through her employer in September, she nevertheless would have been ineligible for BC+ that month.

October is more difficult. Petitioner testified that she called the number on the Forward Health card (1-800-362-3002) and asked what to do about her BC+, and that she was told to just let it run out in October. She could have cancelled her BC+ immediately and no MA payments would have been made for October. The problem is that petitioner called the wrong number with her questions. The notice of the review sent on September 14, 2015, and then a second notice sent on September 18 told petitioner that if she had any questions she should call 1-888-794-5747. Had she called that number she would have spoken with somebody who understood eligibility issues and requirements. The person she called was likely someone who understood MA coverage issues; there are no case notes of that conversation because that person would not have access to the eligibility processing unit's system.

I conclude that I cannot rescind the October overpayment. It is unfortunate that petitioner contacted a coverage expert rather than an eligibility expert, but I cannot conclude that issuance of October MA was agency error. It was petitioner who failed to report her income, and it was petitioner who called the wrong number about the eligibility issue.

CONCLUSIONS OF LAW

Petitioner was overpaid MA in September and October, 2015, and the county correctly determined the amount of the overpayment.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 27th day of May, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 27, 2016.

Brown County Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability